

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON
AT SEATTLE

INFODELI, LLC, a Missouri limited liability
company,

Petitioner,

v.

AMAZON WEB SERVICES, INC., a Delaware
corporation,

Respondent.

NO. 2:17-cv-00281

PETITION TO COMPEL
COMPLIANCE WITH SUBPOENA
DUCES TECUM

Underlying case: *Infodeli, LLC v.*
Western Robidoux, Inc.
(Western District of Missouri, Case No.
4:15-CV-364-BCW)

COMES NOW Petitioner Infodeli, LLC (“Infodeli”), by and through counsel of
record, Impact Law Group, PLLC, and hereby alleges as follows:

I. THE PARTIES

1. Petitioner Infodeli, LLC is a Missouri limited liability company.
2. Respondent Amazon Web Services, Inc. (“AWS”) is a Delaware corporation
with its principal place of business located in Seattle, Washington.

II. JURISDICTION & VENUE

3. This Court has subject matter jurisdiction over AWS based on 28 U.S.C. §
1331 because this legal action pertains to a subpoena duces tecum in a parallel proceeding in
federal court and interpretation of the Federal Rules of Civil Procedure 26 and 45.

1 4. Venue is proper in this district because AWS's principal place of business is in
2 Seattle, Washington and the subpoena duces tecum seeks information located on AWS's
3 servers here.

4 **III. FACTUAL ALLEGATIONS**

5 5. On or about August 30, 2016, Petitioner Infodeli served non-party AWS with a
6 subpoena duces tecum seeking the production of certain indices of digital materials and the
7 digital materials themselves located on its servers that are owned by Engage Mobile
8 Solutions, Inc. ("Engage"). Engage is a defendant in a copyright infringement case currently
9 pending in the United States District Court for the Western District of Missouri. The
10 underlying case is entitled *Infodeli, LLC v. Western Robidoux, Inc.* (Western District of
11 Missouri, Case No. 4:15-CV-364-BCW), hereinafter the "Underlying Litigation."

12 6. Upon information and belief, Engage deposited legacy versions of software
13 and related data on AWS's servers for the purposes of long-term, archival storage. There is
14 no dispute that the materials being sought are relevant to the Underlying Litigation and within
15 the scope of appropriate discovery.

16 7. The date for performance of the subpoena was September 14, 2016. This date
17 came and went without any response or objection from AWS.

18 8. Petitioner thereafter contacted AWS with respect to the subpoena on
19 September 16, 2016.

20 9. In response, AWS served untimely responses and objections to Petitioner's
21 subpoena on September 19, 2016. No other party has objected to the subpoena issued to
22 AWS.

23 10. On October 4, 2016, Petitioner's counsel reached out to AWS's counsel to
24 meet and confer with respect to AWS's response. Meet and confer efforts commenced and
25 continued for some time, including the exchange of position letters, multiple conference calls
26 and email exchanges. Despite these efforts, AWS's counsel advised Petitioner Infodeli on

December 16, 2016 that AWS intended to stand on its objections to the subpoena and it would not be complying with the subpoena duces tecum.

FIRST CAUSE OF ACTION – DECLARATORY RELIEF AND ORDER TO COMPEL AWS’S COMPLIANCE WITH SUBPOENA DUCES TECUM

11. An actual and present controversy has arisen and now exists between the Petitioner Infodeli and Respondent AWS regarding compliance with the subpoena.

12. Petitioner seeks an order from this Court compelling AWS to comply with the subpoena duces tecum and directing production of relevant documents for purposes of the Underlying Litigation by a date to be set by this Court.

13. Petitioner seeks such further declaratory relief as may be necessary to compel AWS’s compliance with the subpoena.

IV. PRAYER FOR RELIEF

WHEREFORE, Petitioner Infodeli prays that the Court grant the following relief:

1. For a decree of declaratory relief ordering AWS to comply with the validly issued subpoena duces tecum and produce responsive materials by a date certain;
2. For such other relief as the Court deems just and equitable.

DATED this 21st day of February, 2017.

IMPACT LAW GROUP PLLC

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CERTIFICATE OF SERVICE

I hereby certify under penalty of perjury that on February 21, 2017, the attached document was presented to the Clerk of Court for filing and uploading to the CM/ECF system. In accordance with their ECF registration agreement and the Court's rules, the Clerk of Court will send e-mail notification of such filing to the following persons:

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DATED this 21st day of February, 2017, at Seattle, Washington.

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